Remarks

Reconsideration of this Application is respectfully requested. Claims 2-10 are pending in the application, with claims 2, 3, and 7-9 being the independent claims. Based on the following remarks, Applicant respectfully requests that the examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 2-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,283,761, to Joao (hereinafter "the '761 patent") in view of U.S. Patent Application Publication 2002/0035484 (hereinafter "the '484 publication"). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the '761 patent, in view of the '484 publication, and further in view of U.S. Patent Application Publication 2003/0093181 (hereinafter "the '181 publication"). Applicant respectfully disagrees with the Examiner's position that each and every feature of claims 2-10 are disclosed in the cited references, alone or in combination. Therefore, based on the following remarks, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections to claims 2-10.

To begin with, Applicant wishes to incorporate herein the arguments presented in the Amendment and Reply Under 37 C.F.R. § 1.116, filed on November 2, 2006, and the Amendment and Reply Under 37 C.F.R. § 1.111, filed on April 30, 2007. In particular, Applicant wishes to reiterate that the information claimed as stored on the stored memory is intended to be limiting and is in fact the very crux of the invention. The listed information is an important part of the invention; the system and method claimed would not be functional without the information stored on the stored memory. Specifically,

independent claims 2, 3, and 7-9 require a personal memory card having ***a plurality of preferred pharmacy information***. This structural limitation provides for a system that functions entirely different than the systems described in the '761 patent, the '484 publication, and/or the '181 publication.

The Applicant has developed an improved system and method of completing a prescription fulfillment using a personal memory card (PMC). In general, the patient carries with him a PMC containing information on ***a plurality of preferred pharmacies***. These pharmacies may be, for example, a list of pharmacies closest to the patient's home, or a list of pharmacies accepting the patient's insurance, or any general list of patient-specified pharmacies.

In operation, a physician enters a medical prescription on the PMC. The information on the PMC may then be used to actively commence a feedback loop. First, a prescription fulfillment request is sent to a first preferred pharmacy. If the first preferred pharmacy is able to fulfill the request, then a confirmation is returned to the transmitter. If the first preferred pharmacy is not able to fulfill the request, then a denial is returned to the transmitter. If the transmitter receives a denial from the first preferred pharmacy, the transmitter may then actively transmit a prescription fulfillment request to a second preferred pharmacy. These active steps may be repeated until one of the preferred pharmacies on the PMC returns confirmation that they can fulfill the prescription request. This active feedback loop results in the patient having his prescription fulfilled at one of his preferred pharmacies. Further, the patient leaves the doctor's office knowing exactly which pharmacy will fulfill the prescription. Such a

system is only functional because the PMC contains information on ***a plurality of preferred pharmacies.***

Each independent claim 2, 3, and 7-9 requires the feature of a PMC containing information on a plurality of preferred pharmacies. The '761 patent and the '484 publication, alone or in combination, do not teach or suggest such a feature. Since such a feature is not taught or suggested, the claims should be allowable over the cited references. More specifically, the examiner is respectfully reminded that claims 3, 7, and 8, and those claims that depend therefrom, are apparatus claims. Therefore, in order to sustain the rejection, the examiner must find some teaching of an actual PMC card having a plurality of preferred pharmacies. Also, the examiner is respectfully reminded that when considering the obviousness of the claim, the invention must be considered as a whole. Again, the '761 patent and/or the '484 publication, alone or in combination, do not teach or suggest a PMC including a plurality of preferred pharmacies, nor the system and method of completing a prescription fulfillment as described above.

Deficiencies of the '761 Patent

Specifically, the '761 patent teaches a system wherein a central processing computer serves as the "keeper" of the patient's healthcare information. In the system taught by the '761 patent, a healthcare provider accesses the central processing computer in order to obtain the patient's information. While the '761 patent does mention that a patient can be provided with an identification card including "any other information *described herein* as being pertinent to the respective patient, user, provider, payer, and/or intermediary," the '761 patent fails to disclose that such "pertinent" information includes a plurality of preferred pharmacy information. (emphasis added) (See the '761 patent,

col. 39, ln 54-67, and col. 40, lns. 1-12.) The '761 patent does not teach or suggest a PMC card having information on a plurality of pharmacies preferred by the patient. The '761 patent does not teach or suggest the concept of using information of a plurality of preferred pharmacies to select a first pharmacy and transmit a prescription fulfillment request to the first pharmacy. Also, nowhere in the '761 patent is there any mention of transmitting a prescription fulfillment request electronically to a preferred pharmacy, and receiving a confirmation electronically advising that the prescription has been fulfilled.

Deficiencies of the '484 Publication

The '484 publication relates to systems and methods for a physician to generate a medication prescription. The '484 publication teaches a system wherein a physician uses a handheld terminal to tap and select a prescription. At the time of writing the prescription, the terminal has information regarding the patient's drug insurance benefits, as well as other patient medical history such as medications that the patient may currently be taking and any allergies. Using this information the physician is able to provide the optimal patient prescription. The prescription is printed out to a printer connected to the terminal at the time of the prescribing so that one print-out is given to the patient and another fixed to the patient's chart. The prescription is printed in regular alphanumeric letters as well as encoded in a machine readable code, or encoded in a smart card so that when it is brought to the pharmacy, the prescription data are automatically entered, reducing human errors. (See the '484 publication, Abstract.)

The '484 publication, however, does not teach or suggest a system using a PMC having a plurality of preferred, or patient-specified, pharmacies. In paragraph [0047] of the '484 publication, there is provided an extensive list of data kept on the patient's smart

card. It is noted that such list (and nowhere else in the '484 publication) does not teach or suggest keeping information on a plurality of preferred, or patient-specified, pharmacies on the smart card. Considering the teachings provided in the '761 patent and the '484 patent, alone or in combination, it is clear that the combination of the '761 patent and the '484 patent does not make the claimed invention obvious.

Deficiencies of the '181 Publication

The '181 publication concerns dispensing systems, such as vending machines, for prescription drugs. The '181 publication teaches an automatic prescription drug dispenser including a remote dispenser, a prescription entry system, and a communications network. The remote dispenser transmits and receives information from the communications network and dispenses prescription drugs to the patient. The prescription entry system transmits and receives information from the communications network and provides an input system for the doctor to electronically enter individual prescriptions for each patient. The '181 publication, however, does not cure the deficiencies of the '761 patent and the '484 publication. The '181 publication, as argued above, does not teach or suggest a PMC having a plurality of preferred, or patient-specified, pharmacies.

Dependent Claims

Claim 4 depends from and adds features to claim 7. Claim 5 depends from and adds features to claim 2. Claim 6 depends from and adds features to claim 3. As such, claims 4, 5, and 6 should be patentable for at least the same reasons as discussed above with respect to claims 7, 2, and 3, respectively.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Peter A. Socarras
Agent for Applicant
Registration No. 54,457

Date: 10/25/07

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

718732_1.DOC